

## **MEMORANDUM**

**TO:** Heads of Fire Departments

**FROM:** Stephen D. Coan  
State Fire Marshal

**DATE:** November 1, 2007

**SUBJECT: Sprinkler Installation Deadline**

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We are quickly approaching the sprinkler installation deadline (November 15, 2007) for the retrofit sprinkler requirements of MGL c. 148, s. 26G1/2 for certain existing nightclubs, dance halls, discotheques and bars (The Fire Safety Act of 2004). The purpose of this memorandum is to provide you with some guidance as you carry out your enforcement activities regarding this law. The following is a summary of several actions that may be taken at this time with respect to those establishments that have not yet complied with your Orders to install the sprinkler systems:

1. Some Orders may have been issued several years ago. Accordingly, it may be appropriate to review your original determination to confirm that the order is still applicable. There may have been a change of use, capacity limit, or the Sprinkler Appeals Board may have rendered a decision that may justify a change or modification of your original determination.
2. If you have issued an Order and installation is not complete, you may enter into discussions about the status of the installation of sprinklers and the possibility of granting a reasonable extension to install (not to exceed 1 year) in accordance with the statutory extension provisions (if applicable).
3. You may enforce your Order by initiating court action in the appropriate court. Follow the procedures as you would for any violation of an Order. Additional options may include: (a) As part of the case disposition request that the court

revoke the occupancy certificate pending sprinkler installation or (b) have the court render a court monitored extension arrangement.

4. You may refuse to co-sign the annual inspection certificate necessary as a condition to liquor license renewal. It is logical that the failure to install the ordered sprinkler system is contrary to your ability to “attest to the safety of the building” (see MGL c. 10, s. 74. (variation options: ) The law allows the issuance of a temporary certificate with terms and conditions, however.
5. For cases that have pending appeals before the Sprinkler Appeals Board, it should be noted that, in general, the filing of an appeal “stays” or prevents any further enforcement pending the results of an appeal (see MGL c. 6, s. 201). However, such a stay is not without limits. Section 201 allows the head of the fire department to present evidence to the Board that a “stay” would involve imminent peril of life or property. Accordingly, if the Fire Chief believes that this “imminent peril” exists, the chief may, by a special motion to the Appeals Board, request that the “stay” be lifted.
6. For buildings that you believe are subject to the law, but no Order has been issued, you should issue an Order as soon as possible. It should be noted that although the statute gives enforcement powers to the head of the Fire Department, it does not contain specific language requiring Orders to be issued by the Fire Chief or issued within a certain time period. In short, “it is better late than never”. In such “late” situations, chiefs should use their best judgment in placing time limits to comply. Additionally, even if the order is issued late, the Appellant still has 45 days to file an appeal to the Automatic Sprinkler Appeals Board.

SDC/bhs